



Cox Business Services
Cox Arizona Telcom, LLC

1550 W. Deer Valley Road
Phoenix, Arizona 85027

January 4, 2006

James Scarboro, Strategic Contracts Manager
Enterprise Procurement Services
State of Arizona Department of Administration
100 N. 15th Avenue, Suite 104
Phoenix, Arizona 85007

Re: Cox Proposal ADSM-6GWM2N - BAFO

Dear Mr. Scarboro:

Cox Arizona Telcom, LLC would like to inform you of the following changes, or notification of "no change," within our proposal:

Contract Terms and Conditions

1.7. Contract Term

Read, Understand and will Comply

1.10. Order of Precedence

Read, Understand and will Comply

1.16. Clarifications

Read, Understand and will Comply

2.2. Ownership

Cox clarifies that Cox may prepare internal service reports, and programs, and that Cox is not selling any programs, reports or other deliverables under this contract. Accordingly, Cox retains ownership of all reports and programs used to deliver the Services to Customer.

2.3. Intellectual Property

Read, Understand and will Comply

5.1. Amendments

Cox clarifies the following sentence in Section 5.1: "The State may unilaterally amend and/or revise the Contract to update certain Attachments herein that apply to information subject to periodic changes that do not directly affect the Scope of the Contract such as but not limited to Contact Personnel and Eligible Customers;" by adding the following: "The State may unilaterally amend and/or revise the Contract to update certain Attachments herein that apply to information provided that such changes that do not (i) affect the Scope of the Contract, including but not limited to Contact Personnel and Eligible Customers; and (ii) cause Contractor to incur additional expense to provide Services.

5.1.3.1. Benchmarking

Cox will comply this Section with the clarification that the benchmarking applies to similar products and services and under substantially similar terms and conditions. (e.g., a T-1 purchased on a five year term may be less expensive than a T-1 purchased by the State on a 1 year term. These services are not substantially similar or comparable for purpose of benchmarking for price adjustment)

5.1.3.2. Decreases

Cox does not object to this Section with clarification that Cox shall only be required to provide price decreases if Cox provides services to substantially similar commercial customers purchasing services in like quantities and under substantially similar terms and conditions. (e.g., a T-1 purchased on a five year term may be less expensive than a T-1 purchased by the State on a 1 year term. These services are not substantially similar or comparable for purpose of price decreases)

5.2.4. Right of Offset

Read, Understand and will Comply

5.2.5.1. Default

Cox accepts the Default provision in this Section 5.2.5.1 and clarifies as follows: Cox shall be given at least thirty (30) days following receipt of written notice to cure any Default by Cox.

5.2.5.9. Non-Exclusive Remedies

Read. Understand and will Comply

5.3.11. Confidentiality of Records

Cox accepts the language in Section 5.3.11 with clarification that (i) the procedures and controls to be established by the State are reasonable; and (ii) compliance with this Section shall be subject to applicable law, including subpoenas and court orders.

5.3.16.3. Patent and Copyright

Cox clarifies this Section 5.3.16.3 with the following: Cox shall indemnify and hold harmless the State against any liability, including costs and expenses, due to a claim by a third party that the services or products as delivered and installed by Cox, or its subcontractors, infringes any patent, trademark, copyright or intellectual property right of a third party.

Attachment 1.1. Offer and Acceptance Form.

No Changes (confirm Arizona Telcom, LLC)

Attachment 1.2. Definitions.

No changes

Attachment 2.1. Products and Services.

No Changes

Attachment 2.4.1. Warranty.

1.1 Liens

Cox clarifies that as a Contractor, Cox warrants that the materials supplied under this Contract are free of liens and shall remain free of liens by persons or entities claiming by or through contractor.

Attachment 2.4.2. Service Levels.

1.1. Service Level Nonperformance – Liquidated and Other Damages

Cox accepts the language herein, clarifying that Cox shall not be liable for failure to meet this service levels due to the following: (i) caused by State, its employees, agents or subcontractors; (ii) due to failure of power or other equipment provided by the State or the public utility company supplying power to Cox or the State; (iii) during any period in which Cox is not allowed access to the premises of the State to access Cox equipment; (iv) due to scheduled maintenance and repair; (v) caused by or due to violations of the Cox Acceptable Use Policy (for Internet services); (vi) caused by a loss of service or failure of the State's internal wiring or other State equipment (unless provided by Cox); or (vii) due to Force Majeure events. In regards to construction and installation matters Cox shall not be liable if the failure is due to (i) delays caused by or requested by the State, its employees, agents or subcontractors; (ii) due to inability of Cox to access the State's premises due to restrictions by the State's landlord or property owner; (iii) due to the public utility company restricting Cox's access to necessary conduits or wiring in the State's building or property; or (iv) due to Force Majeure events. The Service Credits shall be limited to (1) initial start-up costs, if applicable, including construction, plus (2) no more than two months of the monthly recurring charges, not to exceed the State's costs due to the service non-performance.

1.3. Service Level Nonperformance – Chronic

Cox accepts the language herein, provide that chronic outages due to the following reasons shall be excluded: Outages (i) caused by State, its employees, agents or subcontractors; (ii) due to failure of power or other equipment provided by the State or the public utility company supplying power to Cox or the State; (iii) during any period in which Cox is not allowed access to the premises of the State to access Cox equipment; (iv) due to scheduled maintenance and repair; (v) caused by or due to violations of the Cox Acceptable Use Policy (for Internet services); (vi) caused by a loss of service or failure of the State's internal wiring or other State equipment (unless provided by Cox); or (vii) due to Force Majeure events.

1.6. Service Provisioning SLAs (After acceptance of Valid CS order)

Cox accepts the language herein with clarification that in regards to construction and installation service credits, no service credits shall be issued for failures due to (i) delays caused by or requested by the State, its employees, agents or subcontractors; (ii) due to inability of Cox to access the State's premises due to restrictions by the State's landlord or property owner; (iii) due to the public utility company restricting Cox's access to necessary conduits or wiring in the State's building or property; or (iv) due to Force Majeure events. The Service Credits and the State's right to terminate this Agreement are the sole and exclusive remedy for Cox's failure to comply with the Service Levels in this Agreement or outages in Services. In no event shall the service credits exceed twice the monthly recurring charge for the applicable service subject to the service level.

1.10. Up-time (Up) SLAs

Cox accepts the State's SLA clarifying that no service credits shall be issued for failures to meet service levels due to the following: (i) caused by State, its employees, agents or subcontractors; (ii) due to failure of power or other equipment provided by the State or the public utility company supplying power to Cox or the State; (iii) during any period in which Cox is not allowed access to the premises of the State to access Cox equipment; (iv) due to scheduled maintenance and repair; (v) caused by or due to violations of the Cox Acceptable Use Policy (for Internet services); (vi) caused by a loss of service or failure of the State's internal wiring or other State equipment (unless provided by Cox); or (vii) due to Force Majeure events. The Service Credits and the State's right to terminate this Agreement are the sole and exclusive remedy for Cox's failure to comply with the Service Levels in this Agreement or outages in Services. In no event shall the service credits exceed twice the monthly recurring charge for the applicable service subject to the service level. In addition, to the extent that the services are being provisioned over redundant or protected paths (SONET), the loss of the protect or serve path shall not entitle the State to service credits provided that the service is not otherwise interrupted or lost.

Attachment 3. Prices and Pricing.

The Sample Pricing Spreadsheet has been completed, featuring both 36 and 12 month pricing. The Prices and Pricing Spreadsheet has been changed to reflect inclusion of ICB pricing, in place of selected previously stated "N/A," where applicable.



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Attachment 4.1. Ordering Process.

1.4. Order Acceptance

Cox clarifies the following sentence in Section 1.4 of the Ordering Process so it is consistent with the modern contract common law requirement that a contract acceptance be an affirmative action: Orders that are not accepted or not specifically rejected by the Contractor within the five (5) days shall be considered accepted; to the following language: Orders that are not accepted by the Contractor within the five (5) days shall be considered rejected.

1.9.2. Modification or Cancellation after Order Acceptance

Cox clarifies the following sentence in Section 1.9.2 so that any unauthorized modification or cancellation by Contractor, at the Customer's option, may cause the Order to be void.

Attachment 4.2. Quote Request.

No Changes

Attachment 4.3. Purchase Order.

1. Purchase Orders

Cox clarifies the State's purchase order process in Section 1.0, by adding the following language: For all Services under this contract, the State shall submit a request for quotation form which shall set forth the requested services, type and location of service. All services shall be provided at the prices set forth

in the contract. If Cox accepts the service request, the state will send a confirming purchase order form to Cox for the services.

Attachment 4.6. Billing and Payments.

Billing Media

Cox's SmartBill, in addition to the standard monthly paper bill, provides an interactive CD-ROM with traditional and customizable reporting features.



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<http://www.coxbusiness.com/products/other/smartbill.html>

Attachment 4.8. Dispute Resolution.

2.2. Billing Disputes

Read, Understand and will Comply

Attachment 5. Contract Administration.

1.1.3. Transition Liability

Read, Understand and will Comply

1.2.4. Usage Reports and Documents

This document has been changed to reflect a usage of the State Carrier Services contract by all members of the purchasing cooperative.

Sample Usage Report



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Attachment 5.3.2. Key Personnel.

1.2. Key Personnel (Ordering – New Customers)

Name: Bradley Tritle

Telephone No.: (623) 328-3213

E-Mail: Bradley.Tritle@cox.com

Mailing Address: Cox Business Services, 1550 W Deer Valley Road

City: Phoenix

State: Arizona Zip: 85027

Contract Responsibility: Contract Administrator, Account Executive

Attachment 5.3.3. Subcontractors.

No Changes

Attachment 5.3.16.6. Performance Bond.

No Changes

Attachment 5.3.16.8. Insurance.

No Changes

We hope that this proposal meets with your approval.

Please contact Brad Tritle at 623 328 3213, if you have any questions.

Respectfully submitted,



John Egan
Vice President, Commercial Services